

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| In re application of:               | \$ Group Art Unit: 3623            |
| Clark, et. al.                      | \$                                 |
|                                     | \$ Examiner: Sterrett, Jonathan G. |
| Serial No.: 09/941,252              | \$                                 |
|                                     | \$ Attorney Docket No.             |
| Filed: August 28, 2001              | \$ AUS920010723US1                 |
|                                     | \$                                 |
| Title: <u>System and Method for</u> | \$ IBM Corporation                 |
| <u>Anonymous Message</u>            | \$ Intellectual Property Law       |
| <u>Forwarding and Anonymous</u>     | Dept.                              |
| <u>Voting</u>                       | \$ 11400 Burnet Road               |
|                                     | \$ Austin, Texas 78758             |

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Oct. 19, 2007

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Date

**APPELLANTS' REPLY BRIEF (37 CFR 1.193)**

Sir:

**A. INTRODUCTORY COMMENTS**

Appellants now present this Reply Brief in response to the Examiner's Answer of September 5, 2007, and make the following responses to the Examiner's arguments. Appellants' Reply Brief responds to several of the arguments made by the Examiner in the Examiner's Answer. For a full discussion of Appellants' arguments, see Appellants' Appeal Brief, filed May 15, 2007.

No extension of time is believed to be necessary. If, however, an extension of time is required, the extension is requested, and the undersigned hereby authorizes the Commissioner to charge any fees for this extension to IBM Corporation Deposit Account No. 09-0447.

**B. ARGUMENTS****1. Claims 1, 4, 8, 9, 12, 16, 17, 20, and 24 Are Patentable Over Herz**

Claims 1, 4, 8, 9, 12, 16, 17, 20, and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Herz, U.S. Patent No. 6,460,036 (hereinafter Herz). As discussed in detail in Appellants' Appeal Brief, Herz purports to teach a system for "customized electronic identification of desirable objects in an electronic media environment, which system enables a user to access target objects of relevance and interest to the user without requiring the user to expend an excessive amount of time and energy" (Herz, col. 4, lines 38-43). Herz discloses that each target object has a target profile, and each user has a target profile interest summary. The system disclosed by Herz evaluates target profiles versus a user's target profile interest summary in order "to generate a user-customized rank ordered listing of target objects most likely to be of interest to each user so that the user can select from among these potentially relevant target objects" (Herz, col. 5, lines 8-22). In contrast to Herz, Appellants teach and claim a method, system, and computer program product for processing an electronic voting message.

The Examiner's Answer states that Herz teaches most of the elements in Appellants' independent claims (see Examiner's Answer, pages 4-6 and 12-15). Appellants respectfully disagree with the Examiner's assertions with regard to several of the elements found in Appellants' independent claims. For example, Herz does not teach or suggest "compiling a voter data list that includes a plurality of authorized voters." The Examiner's Answer cites Herz at col. 48, lines 27-30 as teaching this element (see Examiner's Answer, page 4). As discussed in Appellants' Appeal Brief, this section of Herz discusses a situation where a parent instructs a proxy server "that only target objects that have been digitally signed by a recognized child protection agency may be transmitted to a user" (Herz, col. 48, lines 22-25). This prevents a child from accessing pornography (Herz, col. 48, lines 25-29). This particular section of Herz does not appear to have anything to do with "compiling a voter data list that includes a plurality of authorized voters."

The Examiner's Answer further cites Herz at col. 5, lines 50-53 as disclosing this element of Appellants' independent claims (see Examiner's Answer, page 12). The Examiner's Answer states that Herz's list of users' target profile summaries "is essentially a list that includes authorized voters, because it represents users that will be solicited for feedback" (see Examiner's

Answer, pages 12-13). Appellants do not agree with this assertion. The cited portion of Herz (including several lines before and after the cited portion) reads as follows:

It is therefore necessary that data in a user's target profile interest summary be protected from unwanted disclosure except with the user's agreement. At the same time, *the user's target profile interest summaries must be accessible to the relevant servers that perform the matching of target objects to the users*, if the benefit of this matching is desired by both providers and consumers of the target objects. The disclosed system provides a solution to the privacy problem by using a proxy server which acts as an intermediary between the information provider and the user. (Herz, col. 5, lines 47-57, emphasis added).

Herz is not discussing compiling a voter data list, but rather is discussing the sometimes conflicting goals of maintaining a user's privacy while also finding matching target objects in which the user may be interested. Herz's solution to this problem includes the use of a proxy server as an intermediary. However, there is nothing in either of the cited sections of Herz that discloses *compiling* any type of list, much less *a list of authorized voters*. Further, a list of authorized voters, as taught and claimed by Appellants, is simply not the same as, or even similar to, a list of users' target profile interest summaries as disclosed by Herz. As noted above in the highlighted section of Herz, the users' target profiles are used by Herz to "perform the matching of target objects to the users." In other words, Herz does not use a user's target profile interest summary to determine if the user is authorized to vote, but rather to determine which objects to send to the user. The cited section of Herz simply does not have anything to do with a voter data list or with any type of voter or list of authorized voters. A close reading of Herz does not reveal any teaching or suggestion of *compiling a voter data list*, and therefore Appellants respectfully submit that Herz does not teach or suggest this element of Appellants' independent claims.

In response to the Examiner's Answer on pages 4 and 13-14, Appellants further submit that Herz does not teach or suggest "sending the voter data list to a mail forwarding service, wherein the mail forwarding service sends one or more vote requests to one or more of the

plurality of authorized voters,” as taught and claimed by Appellants. This element is discussed fully in Appellants’ Appeal Brief on pages 9-10. However, Appellants would like to reiterate that all words in a claim must be considered when determining whether or not a cited reference teaches or suggests a claim limitation. As discussed in Appellants’ Appeal Brief, the proxy server in Herz appears to send communications between a user and an information provider, but there is nothing in Herz that indicates that *a voter data list* is sent *to a mail forwarding service*, as taught and claimed by Appellants. A proxy server is not necessarily analogous to a mail forwarding service and there is nothing in Herz to justify the conclusion that Herz’s proxy server is providing a mail forwarding service.

In response to the Examiner’s Answer on pages 5 and 14, Appellants further submit that Herz does not teach or suggest “determining, based on the voter data list, whether the client is authorized to vote.” The Examiner’s Answer cites Herz at col. 35, lines 30-35 and lines 54-56, and also Herz at col. 36, lines 23-36 as disclosing this element of Appellants’ independent claims (see Examiner’s Answer, page 5 and page 14). As discussed in Appellants’ Appeal Brief, the cited sections of Herz discuss the use of pseudonyms, such that a “user can use different pseudonyms with different organizations (or disjoint sets of organizations), yet still present credentials that were granted by one organization, under one pseudonym, without revealing that the two pseudonyms correspond to the same user” (Herz, col. 35, lines 57-63). The Examiner’s Answer states that “Herz teaches that users of the system who are attempting to provide feedback have their electronic credentials checked to ensure that the message is from someone who is authorized to provide feedback (i.e. vote)” (see Examiner’s Answer, page 14). However, the cited sections of Herz do not appear to be using credentials for the purpose of authenticating users. Rather, the cited sections of Herz appear to be using credentials to help users maintain anonymity. Organizations “have no more information about the individual than the pseudonym itself and a record of previous transactions carried out under that pseudonym” (Herz, col. 35, lines 50-53). Credentials may also “represent facts about a pseudonym” or “be granted to provide assurances regarding the pseudonym bearer’s age, financial status, legal status, and the like” (Herz, col. 35, lines 54-65). Another example given by Herz is the use of credentials by a user so that the “user can prove eligibility for (say) a discount without revealing the user’s personal data to that entity” (Herz, col. 36, lines 11-13). However, Herz’s use of credentials does

not teach or suggest “determining, *based on the voter data list*, whether the client *is authorized to vote*,” as taught and claimed by Appellants. Herz simply does not teach or suggest determining anything based on a voter data list, and Herz certainly does not teach or suggest determining whether a client is authorized to vote, based on a voter data list.

In response to the Examiner’s Answer on pages 5 and 14-15, Appellants further submit that Herz does not teach “in response to determining that the client is authorized to vote . . . removing an identity of the client from the electronic voting message, wherein the removing results in an anonymous message,” and “identifying one or more votes in the anonymous message.” See Appellants’ Appeal Brief on page 12 for a full discussion of this element. Appellants would like to reiterate, once again, that all words in a claim must be considered when determining whether or not a cited reference teaches or suggests a claim limitation. As discussed fully in Appellants’ Appeal Brief, Herz’s “mix path protocol” is used to allow anonymous communication between users, including information providers, vendors, and proxy servers, but does not teach or suggest removing an identity from *an electronic voting message* in response to *determining that a client is authorized to vote*.

The Examiner’s Answer further cites the proxy server used by Herz (Herz, col. 5, lines 55-60) as disclosing that the message received from the user is anonymous (see Examiner’s Answer, pages 14-15). However, the proxy server discussed by Herz merely provides a way for a user to keep “all or part of the target profile interest summary” confidential (Herz, col. 5, lines 42-46). For example, a user may wish to keep information relating to his political, religious, financial, or purchasing behavior confidential (Herz, col. 5, lines 44-47). However, it is important to note that this information is kept confidential with regard to the actual information provider. Herz specifically states that this information is *not* kept confidential from the “relevant servers that perform the matching of target objects to the users” (Herz, col. 5, lines 47-54). As clearly stated in Herz, “the users’ target profile interest summaries *must be accessible* to the relevant servers that perform the matching of target objects to the user” (Herz, col. 5, lines 50-52, emphasis added). In Herz’s system, the servers that perform the matching of target objects to users have full access to the target profile interest summaries, whereas Appellants claim that the identity of a client is first removed from an electronic voting message, resulting in an anonymous message, and then the votes in the anonymous message are identified.

For the reasons set forth above, Appellants respectfully submit that independent claims 1, 9, and 17 are patentable over Herz. Appellants therefore respectfully request that the rejections under 35 U.S.C. § 103(a) be overturned, and that independent claims 1, 9, and 17, and the claims which depend from them, be allowed.

2. Claims 3, 5, 11, 13, 19, and 21 Are Patentable Over Herz

Claims 3, 5, 11, 13, 19, and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Herz. Each of these claims depends from one of Appellants' independent claims, and is therefore patentable for at least the reasons discussed above with regard to Appellants' independent claims.

The Examiner's Answer states that Appellants' "argument hinges on the logic that since Herz does not teach a determination, it can't teach sending a confirmation" (see Examiner's Answer, page 15). While Appellants do make this argument, Appellants also make several other arguments, as detailed in Appellants' Appeal Brief. In particular, Appellants respectfully submit that Herz does not teach or suggest "sending a confirmation message to the client, the confirmation message including *a summary of the determination*," as taught and claimed by Appellants in claims 3, 11, and 19.

The Examiner's Answer also takes Official Notice that the use of freeform comments is old and well known in the art (see Examiner's Answer, pages 15-16). Again, Appellants respectfully note that a claim must be viewed in its entirety. Appellants are not simply claiming the use of freeform comments, but rather, are claiming that one of the votes, which has been identified in an anonymous message (as claimed in the independent claims) includes a freeform comment. Herz does not teach or suggest using a freeform comment in this way. Therefore, Appellants respectfully submit that, regardless of whether the use of freeform comments is well known in the art, claims 5, 13, and 21, when viewed in light of the independent claims from which they depend, are patentable over Herz.

For the reasons set forth above, Appellants respectfully submit that claims 3, 5, 11, 13, 19, and 21 are patentable over Herz, and respectfully request that the rejections of claims 3, 5, 11, 13, 19, and 21 be overturned.

3. Claims 6, 7, 14, 15, 22, and 23 Are Patentable Over Herz In View Of Bayer

Claims 6, 7, 14, 15, 22, and 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Herz in view of Bayer. Each of these claims depends, either directly or ultimately, from one of Appellants' independent claims, and is therefore patentable for at least the reasons discussed above with regard to Appellants' independent claims. As discussed in Appellants' Appeal Brief, Bayer does not overcome the deficiencies of Herz. Therefore, Appellants respectfully submit that claims 6, 7, 14, 15, 22, and 23 are patentable over Herz in view of Bayer, and respectfully request that the rejections of these claims under 35 U.S.C. § 103 be overturned.

**Conclusion**

For the foregoing reasons, Appellants submit that claims 1, 3-9, 11-17, and 19-24 are allowable over the cited art. Accordingly, Appellants respectfully request that the Examiner's claim rejections be reversed and claims 1, 3-9, 11-17, and 19-24 be allowed.

Respectfully submitted,

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